

SENATE BILL 841

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 13 and Title 40, relative to first degree  
murder.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-202, is amended by deleting subsection (c) and substituting instead the following:

(c)

(1) Except as provided in subdivision (c)(2), a person convicted of first degree murder shall be punished by:

(A) Death;

(B) Imprisonment for life without possibility of parole; or

(C) Imprisonment for life.

(2) If a person is convicted of first degree murder and the jury unanimously determines the state has proven beyond a reasonable doubt that the murder was committed against a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, then the person shall be punished by:

(A) Death; or

(B) Imprisonment for life without possibility of parole.

SECTION 2. Tennessee Code Annotated, Section 39-13-204(e)(2), is amended by deleting the language "three (3)".

SECTION 3. Tennessee Code Annotated, Section 39-13-204(f)(2), is amended by deleting the language "If the jury unanimously determines" and substituting instead "Except as provided in subdivision (f)(2)(B), if the jury unanimously determines".

SECTION 4. Tennessee Code Annotated, Section 39-13-204(f), is amended by designating the current subdivision (f)(2) as subdivision (f)(2)(A) and inserting the following new subdivision (f)(2)(B):

(B)

(i) If the jury unanimously determines the state has proven beyond a reasonable doubt that the murder was committed against a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, but that such circumstance and, if applicable, any other aggravating circumstance have not been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt, then the sentence shall be imprisonment for life without possibility of parole.

(ii) If imprisonment for life without possibility of parole is the sentence of the jury, then the jury shall reduce to writing the finding that the state has proven beyond a reasonable doubt that the murder was committed against a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the finding that such circumstance and, if applicable, any other aggravating circumstance have not been proven by the state to outweigh any mitigating circumstance or circumstances beyond a reasonable doubt.

(iii) These findings and verdict must be returned to the judge upon a form provided by the court, which may appear substantially as follows:

PUNISHMENT OF IMPRISONMENT FOR LIFE WITHOUT POSSIBILITY  
OF PAROLE

We, the jury, unanimously find that the state has proven beyond a reasonable doubt that the murder was committed against a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of

correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties.

We, the jury, unanimously find that such circumstance and, if applicable, any other aggravating circumstance do not outweigh any mitigating circumstance or circumstances beyond a reasonable doubt.

Therefore, we, the jury, unanimously find that the punishment shall be imprisonment for life without possibility of parole.

/s/ \_\_\_\_\_  
Jury Foreperson

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

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/s/ \_\_\_\_\_  
Juror

/s/ \_\_\_\_\_  
Juror

SECTION 5. Tennessee Code Annotated, Section 39-13-204(h), is amended by deleting the language "If the jury cannot ultimately agree on punishment," and substituting instead "Except as provided in subdivision (h)(2), if the jury cannot ultimately agree on punishment,".

SECTION 6. Tennessee Code Annotated, Section 39-13-204, is amended by designating the current subsection (h) as subdivision (h)(1) and inserting the following new subdivision (h)(2):

(2) If the jury unanimously finds that the state has proven beyond a reasonable doubt that the murder was committed against a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, but cannot ultimately agree on punishment, then the trial judge shall inquire of the foreperson of the jury whether the jury is divided over imposing a sentence of death. If the jury is divided over imposing a sentence of death, then the judge shall dismiss the jury and the judge shall impose a sentence of imprisonment for life without possibility of parole. The judge shall not instruct the jury, nor shall the attorneys be permitted to comment at any time to the jury on the effect of the jury's failure to agree on a punishment.

SECTION 7. Tennessee Code Annotated, Section 39-13-204, is amended by deleting subdivision (i)(9) and substituting instead the following:

(9) The murder was committed against any law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties, and the defendant knew or reasonably should have known that the victim was a law enforcement officer, correctional officer, department of correction employee, probation and parole officer, emergency medical or rescue worker, emergency medical technician, paramedic, or firefighter who was engaged in the performance of official duties;

SECTION 8. This act shall take effect July 1, 2021, the public welfare requiring it, and applies to offenses committed on or after that date.